IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 818 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR
==
1.   Whether Reporters of Local Papers may be allowed
        to see the judgements?

2.   To be referred to the Reporter or not?

3.   Whether Their Lordships wish to see the fair copy
        of the judgement?

4.   Whether this case involves a substantial question
        of law as to the interpretation of the Constitution
        of India, 1950 of any Order made thereunder?

5.   Whether it is to be circulated to the Civil Judge?

        G S R T C
Versus
        JOGENDRABHAI MANIYABHAI   CHAUDHARI

        Appearance:
            M/S THAKKAR ASSOC. for Petitioner
            MR DH WAGHELA for Respondent No. 1

        CORAM : MR.JUSTICE N.N.MATHUR
        Date of decision: 25/11/98

ORAL JUDGEMENT
        RULE.

    Heard the learned Advocates for the parties.   On
    the misconduct of misappropriation being proved in the
    domestic enquiry, a penalty of dismissal was inflicted on
    the respondent workman by the petitioner corporation. On
    the industrial dispute being raised, the dispute was
    referred to the   Labour   Court,   Surat.   The

respondent-workman did not challenge the proceedings of the domestic enquiry. Considering the fact that the misconduct was of a technical nature, the Labour Court substituted the penalty and directed to reinstate the workman without backwages.

2. It is contended by the learned Advocate for the Corporation that once the misconduct was proved, some sort of penalty was required to be inflicted. I find substance in the contention of the petitioner. Considering all facts of the case, if the penalty of dismissal is substituted by penalty of stoppage of one increment simplicitor.

3. Consequently, this Special Civil Application is partly allowed. The award of the Labour Court dated 24.2.1997 is modified to the extent that the penalty of dismissal is substituted by the penalty of stoppage of one increment simplicitor. The award directing the petitioner to reinstate without backwages remains intact. Rule made partly absolute.

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msp.